

DCI

## ROUTING AND RECORD SHEET

SUBJECT: (Optional)					
FROM: Stanley Sporkin General Counsel		EXTENSION:		NO:	
				DATE	
TO: (Officer designation, room number, and building)		DATE		OFFICER'S INITIALS	
		RECEIVED		FORWARDED	
1. [redacted] D/EAS		02 OCT 1981		✓	
2.					
3. <del>DDCI</del>					
4.					
5. DCI		2 Oct		WJC/alg	
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15.					

Revised per DCI's request.

Stanley Sporkin

Memo  
Chromo  
copy

Sent to WH Sit Room, 2 Oct 81, 1900 Hrs with instructions for delivery to VP Desk AM, 3 Oct.

3 Oct 0900, WH Sit room called CIA Opns Center, VP Out of town, will return late Sunday or Monday and only a Staffer in VP's office.

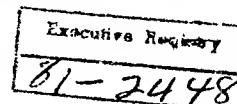
CIA Opns Center SDO [redacted] called Exec Reg for instns. Ch ER and [redacted] agreed that memo should be sent via cable to VP - CIA Opns Center will send.

[redacted]  
3 Oct, 0905

Central Intelligence Agency



Washington, D.C. 20505



2 October 1981

## MEMORANDUM FOR THE VICE PRESIDENT

SUBJECT: Intelligence Identities Protection Act

1. The Senate Judiciary Committee is scheduled to mark up S. 391, the Intelligence Identities Protection Act, on Tuesday, 6 October 1981. We anticipate a close vote on debilitating amendments which will be offered by Senator Biden. The most significant proposed amendment will involve subsection 601(c) of the Bill, which imposes criminal penalties upon anyone making unauthorized disclosures of the names of certain individuals engaged or assisting in the foreign intelligence activities of the United States. We expect Senator Biden to offer an amendment which would strike the objective "reason to believe" standard now contained in S. 391, and substitute the subjective "intent to impair or impede" standard formerly contained in H.R. 4, the House version of this legislation, before it was amended on the House floor.

2. It would be extremely helpful if you would urge Minority Leader Byrd and Senators Mathias, ~~Specter~~ and DeConcini to support a favorable Judiciary Committee report on S. 391 without amendment at the markup on Tuesday. The Administration has acknowledged that the language originally contained in the House Bill would be acceptable, but we have consistently expressed a preference for the objective standard passed by the House and currently embodied in S. 391.

3. The key arguments for our position are as follows:

-- The objective "reason to believe" standard and the subjective "intent to impair or impede" standard both pass constitutional muster, but the objective standard now contained in S. 391 is more certain to be effective in ending unauthorized disclosures of intelligence identities.

-- The objective standard focuses on overt acts rather than on conjectural state of mind or "intent." Political beliefs or criticism of U.S. policy are irrelevant under the objective standard. This means that there is less reason to fear intrusive investigations focusing on individual motivations. There would be less of a "chilling effect" on speech with the objective standard.

-- The objective standard has had the bipartisan support of two successive Departments of Justice and both the Carter and Reagan Administrations.

4. The key point, however, is that we want to enact Identities legislation this year. The main thing we need at the moment is for the Judiciary Committee to report the Bill out, even if we are not completely satisfied with its language. Remedial action can be taken on the Senate floor or in conference.

*Bill*  
William J. Casey

Director of Central Intelligence

*- Justice says S. 391 is more readily enforceable.*

*- There are precedents (the Espionage Act + others) + decisions which support the constitutionality of a statute imposing criminal penalties on the basis of "reasonable belief"*

*WJR*